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cfinsider

Journal for the Certified Forensic Interviewer



Letter from the Chairman of the CISA Advisory Committee



David E. Zulawski, CFI, CFE
Chairman CISA Advisory Committee

It's hard to believe that another year has passed and I'm reporting on our most recent Advisory Board committee meeting. Significant progress was made in many of the initiatives the board had suggested from last year's meeting. Our continuing

growth and communication with our members was one of the strong initiatives encouraged at last year's Advisory Board committee meeting.

As you can see in Figure 1, our membership of CFIs continues to grow and recertification hovers around 70 percent. Having 70 percent of the designates maintain their certification is an extremely high rate when compared to other examinations around the country. Many of those choosing not to recertify have moved on to other professions, returned to school, or simply stopped working.

More than 350 different organizations have one or more CFIs working for them. In addition, the number of international CFI's continues to grow. Over the last year, we also modified background checks for recertification and made changes to the recertification application, requiring the applicant to acknowledge he has not violated the CFI code of ethics or been discharged for dishonesty. This last year, we have increased continuing education

credits to eight per conference for attendees..

The applicant handbook and application form for the CFI examination were also updated.

The Advisory Board also suggested we increase the number of members on the board from both the public and private sectors. The number of Advisory Board members will increase to approximately 26 people. In addition, the board suggested a call for CFIs to participate on a public relations committee, recertification committee, or *CFInsider* committee.

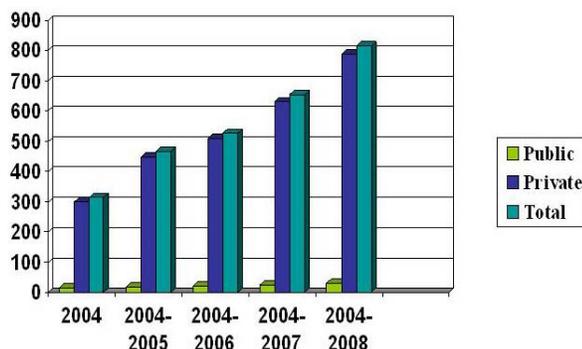
The board also discussed the *CFInsider Journal* and the way it is distributed. In general, the board members found the *CFInsider* to be informative, useful, and an excellent training aid to share with others. As a result of this discussion, the *CFInsider* will be made available via the Web site www.certifiedinterviewer.com, to anyone interested.

The consensus of the committee was the *Journal* is a valuable resource that should be shared and ultimately might increase interest in becoming a CFI designate. The *CFInsider Journal* also will be sent out as a link rather than as a PDF to allow it to pass through spam filters more easily. In the past a significant number of e-mails were returned because of the attachment, so using the link should allow members to download the *Journal* when it is convenient. At some point after the *Journal* is released to the membership it will be placed on the Web site for general reading and distribution to nondesignates.

We now have completed an online recertification option to make it easier for those recertifying their CFI designation. The Advisory Board also worked on the second CFI examination, which will begin to be used in early 2009. The second examination will have a slightly different passing score than the first

Figure 1

Total CFI w/ Recertification



Continued on page 3

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examination, but regardless of whether it is an easier or more difficult test, it will be reflected by a correspondingly higher or lower passing score to balance it against the first examination. You may remember a number of questions were used to provide a baseline for future examinations so that we did not have to wait for a hundred people to take the test to determine the cut score. All future examinations will have a cut score calculated to balance it against the first examination we produced.

I think it is also interesting to note the number of CFIs giving presentations and speeches to groups around the country. It is no wonder the best and brightest minds in our industry have become CFIs. If you have given presentations, please let us know so you can be included in the list in the *Journal*. And make certain you include the presentation as part of your recertification hours. We all look forward to the continuing growth of the CFI designation and are heartened every time we see a job advertisement listing "CFI preferred."

Spread the word, encourage others, and flaunt your designation.

Sincerely,
David E. Zulawski, CFI, CFE

Hello from the Editor

Cary Jones, CFI, Cracker Barrel

Over the course of time, you may be asked what is a CFI, and how it benefits your organization. As you know, CFI stands for Certified Forensic Interviewer. As a CFI, I am proud of this designation.

When talking with someone outside the industry, I point out that the certification is similar in some ways to being an accountant who also is a CPA. A CPA is held to rigorous standards, and has worked toward a step of professionalism above that of the accountant. The CFI designation also has rigorous standards,

continuing education requirements, and a code of ethics, and is a step in professionalism for the loss prevention interviewer above the industry standard. The official CFI objectives are as follows:

The objective of this certification program is to create comprehensive, universally accepted professional standards combined with an objective measure of an interviewer's knowledge of those standards.

- The ultimate goal is that every person and every organization with a stake in interviewing will benefit from the program, as will the reputation and effectiveness of the entire profession.
- The benefit to our company is that it demonstrates to the public and private realms that we are committed to continuing the education of our employees, that we subscribe to high interviewing standards, and that we share interviewing integrity with other agencies and companies. The benefit to our Loss Prevention Department is that, upon certification, we have an interviewer who has had the opportunity to personally and professionally test him- or herself becoming a more efficient employee. They not only improve themselves, but are then able to mentor other interviewers and improve the performance of the department.

We are curious what other CFIs have used when describing the CFI to others. Please share with us how you let your organization, or others, know why the CFI is a benefit. [Email Us](#).

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Making Electronic Recording of Interviews

By Thomas P. Sullivan

Investigators should consider a number of important topics when using electronic recording equipment for conducting investigative interviews, whether face-to-face or by telephone.¹

During the past several years, my associates and I have spoken with detectives from more than 600 police and sheriff departments throughout the United States that make it a standard practice to record interviews of suspects who are in custody in police facilities.² They recount with great enthusiasm the benefits that electronic recordings have for all concerned in the criminal justice system. We have yet to speak with a detective who, after having experience with recorded interviews, would voluntarily revert to non-recorded custodial interviews.

Private investigators may enjoy many of the same benefits, and I believe they should give serious consideration to recording interviews, while bearing in mind the qualifications and restrictions explained below.

1. The advantages of electronic recordings.

Experienced law enforcement detectives and private investigators know that electronic recordings of interviews provide a far superior record of what was said and done than handwritten notes, typewritten summary reports, or unaided memory. It is obvious that, in virtually every instance, an indisputable record of what occurred is obtained, precluding disputes as to what the participants said and did. If a video camera is used, the mannerisms, facial expressions, and subtle indicia of honesty or evasion are captured on film, relieving investigators from attempting to express these subjective events in words. Those who conduct themselves properly, in accordance with law and ethics, do not have to defend their honesty, candor and objectivity.³ Recordings also protect those being interviewed, because their words and actions are not subject to Investigators should consider a number of important topics when using electronic recording equipment for conducting investigative interviews, whether face-to-face or by telephone misinterpretation or distortion, or their exculpatory explanations omitted, when investigators later recount what occurred from notes or memory.⁴ In short, all parties who have acted appropriately benefit from electronic recordings of interviews.

2. The necessity for private investigators to give notice of or obtain consent to recording.

The laws of the 50 states vary on this subject. Hence, it is necessary Investigators should consider a number of important topics when using electronic recording equipment for conducting investigative interviews, whether face-to-face or by telephone to learn the law of the state in which your interviews take place. Some states have statutes that permit those who are known participants in personal or telephone conversations to make electronic recordings of the conversations without the knowledge or consent of any of the other participants. In other states (for example, in my home state of Illinois) it is not permissible to make recordings of your private or telephone conversations without the knowledge and/or consent of all parties to the conversation.

The consequences of recording conversations in violation of state law also vary. In some states, making recordings without the knowledge or consent of all known participants is a crime. Violators may be subject to claims for money damages by those who are recorded in violation of the law. The products of illegally recorded conversations may be inadmissible in court or administrative proceedings.

Therefore, before you use any kind of equipment (including pen registers, trap and trace devices) to personal or telephone conversations, you should determine the requirements and restrictions imposed by the laws of the states in which your recording devices will be used.

This can get complicated, for example, when telephone conversations involve persons speaking in different states; the laws of both states should be determined. If the state laws differ, the conservative approach is to follow the more restrictive. Westlaw's "50 State Statutory Surveys Utilities/Telecommunications" provides a helpful guide to citations of each state's laws on the subject.

3. Whether you should give notice of recordings even if it is not required by law.

In the event the relevant state law permits the recording of personal or telephone conversations without the knowledge or consent of the others involved, you should nevertheless consider whether to notify all those involved that you intend to make a recording. Some people may raise objections to being recorded, thus impeding the



investigation, while in other cases it may be welcomed, because it gives assurance to participants that their words will not be misconstrued or altered.

This is a matter of judgment in each case. Most detectives with whom we have spoken have told us that most suspects do not object to being recorded. Indeed, many expect recordings to be made and pay little or no attention to recording devices once the interviews begin. However, some are uncomfortable with being recorded, and are therefore less likely to be forthcoming, or will refuse outright to be interviewed while being recorded. When suspects will not cooperate fully if they know the interviews are to be recorded, the detectives proceed with handwritten notes, rather than lose the opportunity to obtain the interview. This seems a prudent approach for private investigators as well.

4. Investigators' conduct during interviews.

You should consider these basic formalities when conducting recorded interviews:

- (a) Introduce yourself and those who accompany you, and advise those present as to the person or entity you represent or for whom you are working.
- (b) Identify all other persons present by name and affiliation or status.
- (c) If you have disclosed that a recording will be made and received consents, have the parties repeat their consent after the recording device is activated, so that there can be no later claim that they were unaware of the recording. (If they decline to be interviewed if recorded, that should be recorded or included in your handwritten notes.)
- (d) In the event the identity of speakers may be unclear when the recording is later played, identify them as you go along. (If a recording is being made without the knowledge of other participants, this may be difficult to do without alerting them to the fact that a recording is being made.) Identifying speakers obviously is more important when audio equipment is being used, because well-positioned video cameras will show who is talking.
- (e) Try to make certain that words used by the speakers, including your own, are clear and audible, and will be understood when the recording is later played. This may involve strategic placement of the microphones, to ensure they will pick up what is said and (with video) done.

(f) Refrain from the use of profanity, threats of violence made orally or by gestures, threats of sanctions, promises of leniency, and other tactics that may make responses appear to have been coerced or unfairly obtained. Abusive conduct may result in the recordings being ruled inadmissible in court or administrative proceedings.

It is worth repeating two points:

- Become familiar with relevant laws, both local and federal, to determine what conduct is and is not considered appropriate, and what tactics may prevent introduction of the recordings in evidence, or expose you to discipline, damages or prosecution.
- Carefully avoid acting in a manner that may cause listeners and viewers of your recordings to take offense at your conduct, and distract attention from the information you have obtained from those being interviewed.

5. Permissible tactics and techniques during interviews.

(a) *Distinctions between private investigators and those working for public agencies.*

Federal and state statutes and court rulings have placed limitations on the interviewing tactics and techniques that may be used by investigators who are employed by federal, state and local agencies. For example, federal law and many states permit federal agents and state and local police to lie about the evidence in order to induce confessions from those suspected of criminal activity. On the other hand, most jurisdictions do not permit the use or threat of physical force, or promises of immunity from criminal charges or of leniency in sentencing.

While these restrictions are not applicable to private investigators so long as they are not acting at the behest of or in cooperation with law enforcement personnel, they provide a useful guide to tactics that investigators should avoid. It is wise not to use tactics that may appear to listeners and viewers as abusive or unfair. To be on the safe side, consult federal law and the laws of the states in which you are acting, to ensure that your conduct is lawful.

(b) *Threats of civil liability.*

Another aspect of law that should be investigated is whether you may make threats of civil liability, in order to persuade witnesses to "fess up." In some jurisdictions, those kinds of threats may affect the admissibility of the recordings in evidence. There may be

distinctions between outright threats and subtly phrased implied threats. Here again, local law should be consulted.

(c) Use of recording equipment when persons are alone in the interview rooms.

Courts have permitted introduction of recordings of what persons being interviewed say or do when they are alone in the interview room. In many cases, extremely damaging evidence has been obtained under these circumstances.

6. The dangers of investigators being charged with committing crimes, or sued for civil damages.

As noted above, you may risk criminal charges or civil suits for money damages if you violate the laws of the state in which you are acting, or federal laws. Therefore, carefully check the law of the state in which the interviews are being conducted. This is especially important in states that permit electronic recordings to be made without the knowledge of all participants, in order to protect against the risk of civil and criminal liability.

To illustrate the potential risks, I will refer to the law in Illinois, where I practice.

(a) Illinois criminal laws.

Illinois is among the states that prohibit electronic recordings of conversations without the consent of all parties. Violations are felonies, punishable by jail sentences and fines.⁵

(b) Illinois civil laws.

The Illinois Eavesdropping Act provides that persons whose conversations are illegally recorded may obtain an injunction to prevent the results from being used for any purpose, including criminal or civil court actions, or an administrative or legislative hearing. The law also provides that persons whose conversations are illegally recorded may recover both actual and punitive damages from those who made or assisted in the recordings.⁶

(c) Other criminal and civil laws that may be relevant.

Aside from eavesdropping laws, other statutory or court laws may be implicated in states in which interviews or surveillances are conducted. An example is false imprisonment, which may be committed if an investigator physically prevents or restrains the witness from ending an interview and leaving. Another potential

basis for liability is a violation of what is known as the right of privacy. Here again, to avoid later problems and litigation, reference to local laws is required.

7. Preservation of recordings.

The place where recording tapes and discs should be stored, and the length of time they should be kept, is a matter to be determined by the private investigators. For your own protection and reputation, this should be the subject of your own policy, and not dictated by those who employ you. It is preferable if your recording preservation policy is put in writing and included within all contracts with your clients. Regardless of the policy, you should exercise caution before discarding recordings (or handwritten notes, for that matter) when you know or expect that they would be relevant to existing or potential litigation. The laws of some states require preservation of relevant evidence, and breaches may result in civil damages.

Conclusion.

Based upon conversations with hundreds of detectives from throughout the country, it is my firm opinion that electronically recording interviews is an excellent practice for private investigators, so long as caution is exercised to assure compliance with applicable laws.

August 1, 2008

(Footnotes)

¹ This article does not address recordings made by a private investigator of telephone or personal conversations when the investigator is not a known participant, and the parties to the conversations are unaware that the investigator is making a recording. That situation is outside the scope of this article, and requires careful research of both federal and state law.

² Attached as an appendix to this article is a listing of departments that record custodial interviews in criminal investigations pursuant to statutes and court rulings, and those we have identified as recording voluntarily.

³ Among the advantages to law enforcement from recording custodial interviews are: a dramatically reduced number of claims that the suspects were coerced into confessing, or that the detectives are misstating what was said or done during the session; the powerful effect of permitting judges and juries to hear damaging admissions or confessions from the suspects own mouths rather than relying on detectives recollections, which



inevitably risks forgetfulness, inaccuracies and biases; improved skills and demeanor of investigating officers; avoiding the expenditure of time and money by the police, prosecutors, defense lawyers and judges, at both the trial and appellate levels, in resolving disputes about what took place during unrecorded interviews; and enhanced public confidence in the integrity of the criminal justice system.

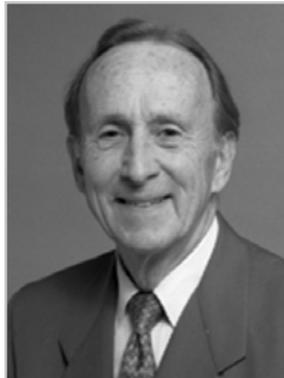
⁴ When reviewing recordings, detectives and their supervisors are able to evaluate the candor and honesty of suspects, often illustrating their likely innocence of the crimes under investigation.

⁵ 720 ILCS 5/14-2(a)(1).

⁶720 ILCS 5/146.

<http://certifiedinterviewer.com/pdfs/appendix001.pdf>

Thomas P. Sullivan, a 1952 graduate of Loyola Law School, has specialized in civil and criminal trial and appellate litigation with the Chicago firm of Jenner & Block since 1954, except when he served as United States Attorney for the Northern District of IL from 1977 to 1981. He has written and spoken extensively on civil and criminal trials and appeals and criminal justice reform. He was Co-Chair of the IL Governor's Commission on Capital Punishment, and is now Chair of the IL General Assembly Capital Punishment Reform Study Committee. He is Chair of the Northwestern U. Law School Center on Wrongful Convictions Advisory Board. He has received various awards, including Loyola Law School – Medal of Excellence (1965) and Damen Award (2004); Chicago Bar Association – Justice John Paul Stevens Award (2000); American Bar Association Section of Litigation – John Minor Wisdom Award (2003); Northwestern University Center on Wrongful Convictions Award (2003); American Judicature Society – Justice Award (2004); Laureate of IL State Bar Association Academy of IL Lawyers (2004); Chicago Lawyer's 2004 – Person of the Year Award; Legal Assistance Foundation of Metropolitan Chicago – Lifetime Achievement Award (2005); University of Notre Dame Honorary Doctor of Laws degree (2006); The American Lawyer – Lifetime Achievement Award (2007); Chicago Council of Lawyers and Chicago Appleseed Fund for Justice – Commitment to Justice Award (2007); Honorary Fellow, Illinois Bar Foundation (2007); and Chicago Lawyer Chapter of the American Constitution Society – Legal Legends Award (2008).



LinkedIn

As mentioned in a previous issue, a networking group has been created for CFIs. We now have more than 125 members to the CFI networking group on LinkedIn. If you would like to join the CFIs on www.linkedin.com select the groups tab and search for CFI. Request to join and we will approve you as a member. As a member you will be able to take part in:

- Discussion forums—simple discussion spaces for members.
- Enhanced roster—searchable list of group members.
- Digest emails—daily or weekly digests of new discussion topics that members may choose to receive.
- Group home page—a private space for your members on LinkedIn.

Should you have any questions you may contact [Ray Cotton](#).

Missing CFIs E-mail/Contact Information

Please click [here](#) and review the list of current CFIs, to see if you or someone you know is listed in BOLD. If so, it indicates we do not have current phone numbers, titles, organizations, or e-mail addresses to reach these people.



Two *CFInsider* Editors teamed up for a presentation at the NFSSC Conference in July. Pictured are Stefanie Hoover, CFI and Cary Jones, CFI. Their presentation was on: "Generation Y: Loss Prevention and the New Workforce."



Article Submissions

All CFIs are invited to submit articles, book reviews or other materials for publication. Submission of an article to *CFInsider* does not guarantee it will be published.

CFInsider reserves the right to edit any article for grammar, clarity, and length, but the content or opinions contained therein will be those of the author.

Publication of an article, its contents, and opinions do not necessarily reflect the opinion or beliefs of *CFInsider* or the Advisory Committee.

Did You Know?

In addition to the CFI Coin, we have received requests for numerous CFI items. While several are under development, including a new logo for shirts, we do have 100 commemorative CFI leather bound folders available.

The cost is \$30.00 plus shipping. Please click [HERE](#) to order yours today!



What Does Your Business Card Look Like?

Have you added CFI to your card?



Dyslexia

By Chris Goebel, CRT, CFI

After earning my CRT and CFI, and with more than 10 years of interviewing experience, I thought I was ready for most anything—until I interviewed a dyslexic person. Yes, I meant to say “a dyslexic person” or a dyslexia person.

The interview itself went fine until it came time to prepare the written statement. That’s when I learned the 22-year-old gentleman I was interviewing had dyslexia. That interview sparked my interest in what exactly dyslexia is and how it impacts what I do in an interview or interrogation.

I first wanted to learn what dyslexia is. I had preconceived impressions that a person with dyslexia inverts letters when reading and writing (that is to say, a “b” for a “d” or visa versa). But my research told me that’s only a minor example of the disorder.

In searching for a definition of dyslexia I found Dr. MacFarlane, from the Centre for Interactive Systems Research in London, UK, who noted, “The definition of dyslexia is somewhat controversial.”

The Mayo Clinic in its August 27, 2007, “Tools for Healthier Lives” says “Dyslexia is an impairment in your brain’s ability to translate written images received from your eyes into meaningful language. . . .”

The Nemours Foundation’s Teens Health “Understanding Dyslexia” says “. . . dyslexia is the term used when people have difficulty learning to read, even though they are smart enough and are motivated to learn. . . . Dyslexia is a language processing disorder, so it can affect all forms of language, either written or spoken. . . .”

The Christian County Association For Specific Perceptual Motor Disability, Inc. in Hopkinsville, KY, says “The dyslexia person has major problems with accuracy and misreading large and small words. [He] . . . may have problems with comprehension. . . . Listening comprehension is higher than reading comprehension for the dyslexia . . . The dyslexia writer frequently had significant problems with spelling, grammar, proofreading, and organization. . . .”

In all of the research I did on this topic, one of the common threads I found is that in most instances, people with dyslexia are intelligent,

motivated and eager to learn. Dyslexia is most often not an indication of intelligence.

It appeared to me that dyslexia can impact an interview or interrogation in two ways: (1) According to Dr. A. McFarlane in the published study "Dyslexia and Information Retrieval," "Dyslexia people are quick forgetters and they rely on long term memory. Short term memory problems have a significant impact on information retrieval. . . ." and (2) the level of ability to accurately read or write a formal statement.

At this point I was beginning to wonder about false confessions based on the level or form of dyslexia. I reviewed my CFI study guide and reread the section on false confessions. In reviewing the material I read Professor Ofshe's 1989 definition: "A confession is considered false if it is elicited in response to a demand for a confession and is either intentionally fabricated or is not based on actual knowledge of the facts that formed its content."

After rereading the information on the three types of false confessions; voluntary, coerced complaint, and coerced internalized, coupled with the information I had read on dyslexia, I believe that the risk of obtaining a false confession from a dyslexia person is of a minimal, if any, concern.

I still had the question of how can I be sure that a dyslexia interviewee is able to accurately write, read, and comprehend his or her statement. I did not find a Web site that addressed this topic regardless of how I Googled it.

In my first known experience with a dyslexic interview (my 22-year-old gentleman), once he told me he needed help and why, I had to stop and think, how do I help him and the process? Eventually I simply asked him how I could help him with the statement. After all, I figured since he knew he was dyslexia he would probably know what would work best. The first step we agreed on was that he would tell me what happened and I would type the statement for him. As I typed the statement I did it word by word. I increased the font size and boldfaced each word.

Everything seemed to be going well. The interviewee was moving right along through the statement up to the point that I printed it out and asked him to re-read it and make any changes he wanted. I could see by the look on his face that he was struggling to read and comprehend it.

Before going any further, I want to make the point that, as professional interviewers, there are at least two major rules we should follow when working with a dyslexia interviewee: patience and professionalism with integrity. Remember, most dyslexias are intelligent. Your patience and integrity with the dyslexia interviewee will greatly aid you in preparing legally sound cases. To help the interviewee with reading and correcting the typed statement we placed a piece of plain white paper over sentences above and below the one we were working with so that only one sentence at a time was in view. That seemed to help with the readability and comprehension.

Once we completed the reading of the statement, the interviewee signed it and added in his own hand that he had read the statement, understood its content and it was true and correct.

This whole article may seem commonplace to some of you. But I hope it serves as a reminder and an awareness that at times we have to make accommodations during an interview or interrogation. Dyslexia is not a disease nor is it an indication of intelligence. It is another variable requiring patience and professional integrity. As professional forensic interviewers, we need to be aware of that and work with it.

For further reading on the topic of dyslexia, I suggest the following Web sites: (1) www.hopkinsvilledyslexia.org/ (2) http://kidshealth.org/teen/diseases_conditions/learning/dyslexia.html or (3) www.mayoclinic.com. If you are really feeling adventuresome, just Google the word "dyslexia."



Interviewing Guidelines- Anyone Listening

By Don Ward, CFI, CFE

Over the last several months, I've found myself intrigued by conversations in chat rooms, blogs and other online forms of discussion. Recently, I was reading a conversation about interviews. Naturally, the story telling is what hooked me into the conversation. This particular conversation involved many people at varying levels within their careers. As I read the posts, I became more and more curious over the content.

Stories of interviews lasting 5, 6, 7 or even 8 hours were not uncommon. One story told of an interviewer ordering food in the middle of the interview, because the interview lasted so long. Another story told of an interviewer's supervisor instructing the interviewer to "just get the admission, I don't care how". Suddenly, the terms "coercion", "compulsion" and "false imprisonment" starting entering into my thoughts as well as how is this happening? Isn't anyone listening to these interviews? This got me thinking about companies that might be operating without interviewing standards or guidelines.

As professionals in the world of investigations, we all know that the one thing we do that can cause the most liability to the company is an interview. Anyone conducting interviews should be doing so under some type of company guidelines. In most cases, these guidelines protect the interviewer and organization against lawsuits. Defamation of Character, False Imprisonment, Infliction of Emotional Distress and Wrongful Discharge are just some of the more frequent types of claims filed against companies and the investigators conducting interviews. While I would love to dive into each and every one of these liability issues, I will refrain from it for the sake of sanity (yours and mine) and choose to focus on Intentional Infliction of Emotional Distress, Wrongful Discharge and False Imprisonment.

The elements for a prima facie case for the tort Intentional Infliction of Emotional Distress are outrageous conduct by the defendant, the defendant's intention of causing or reckless disregard of the probability of causing emotional distress, the plaintiff's suffering severe or extreme emotional distress and causation of the emotional distress by the defendant's outrageous conduct. Emotional Distress can be defined as mental distress, mental suffering or mental anguish. It includes highly unpleasant mental

reactions such as fright, nervousness, grief, anxiety, worry, mortification, shock, humiliation, indignity and physical pain.

Lawsuits involving a claim of Intentional Infliction of Emotional Distress are commonly filed due to an unreasonably lengthy interview. Ask yourself, "How long is unreasonably lengthy?" My answer, "I don't know." However, I have a good idea that anything more than 4 hours might expose you to some liability. A common sense approach to this problem might be to define how long an interview should last. For example, a guideline might be that the interviewer has one hour to complete the interview and another hour to complete all necessary forms. Knowing this guideline upfront could prevent an interviewer from an unreasonably lengthy interview.

There are some minor variations in the definition of Wrongful Discharge depending on the employment situation (i.e. At-Will, Contract, Union). Wrongful Discharge can be defined as the discharge of an employee for illegal reasons or for reasons that are contrary to public policy. The issue for an investigator in this circumstance is whether there was anything illegal or contrary to public policy in the investigation or interview. A common mistake is the use of coercion. Coercion can be defined as expressed or implied threats of violence or reprisal or other intimidating behavior that puts a person in immediate fear of the consequences in order to compel that person to act against his or her will.

In cases of a claim of Wrongful Discharge, the claimant indicates that he/she was terminated based on improperly obtained evidence during an interview. This can happen when the interviewee is coerced or compelled in order to obtain an admission. Now some of us might be saying, "That will never happen to me." Think about the first 20 or 50 interviews you completed in your career. Does this phrase sound familiar? "I'd like to handle this issue today within these four walls without having to involve any other authorities". This phrase is an example of a compelling statement that is designed to overcome a person's free will. Therefore, the voluntariness of the admission is questionable, because the interviewer used compulsion to obtain the admission. This brings me back to the interviewing guidelines mentioned earlier in this article. Specific guidelines, an interview review process, and training can assist in minimizing this type of liability.

False Imprisonment is usually associated with false arrest in the public sector. As investigators in the private sector, we also need to

be aware of the potential issues. False Imprisonment can be defined as depriving someone of freedom of movement by holding a person in a confined space or by physical restraint. In this instance, we need to pay close attention to the phrase “depriving someone of freedom of movement”.

As mentioned above, claim of False Imprisonment typically involves taking away a person’s freedom to leave. This might mean that the individual was physically detained or the subject was placed in a room where his freedom to exit was perceived as blocked. This could be a locked door or even the placement of the witness or interviewer blocking the person’s exit path. In preparation for the interview, the interviewer and/or witness position in relationship to the exit door and the interviewee is important to keep in mind. A best practice might be collecting a witness statement and rudimentary drawing of the room setup to defend against these types of claims.

It doesn’t matter whether you’re a seasoned interviewer or preparing for your first interview. These are issues that affect all interviewers at every level. I am certainly not the expert in these types of matters, but all of us should consider the potential liabilities and how we might prevent potential problems from arising.

Here are some questions to think about. Does my company have interviewing guidelines? Are the interviewing guidelines specific or vague? When was the last time the people conducting interviews received training? How much training is enough? Is there an “I don’t care how you get the admission” attitude within your organization? Is there a review program set up to review interviews?

After pondering these questions, it will be time to deal with the responses. Hopefully, most of the responses are positive and will require little or no course correction. If there are opportunities to course correct, then you’ll need to have short and long term approaches to ensure the minimization of these liabilities. It might be a good idea to reach out to other companies to see how they are dealing with these issues or research training programs (i.e. CFI).

Don is a Loss Prevention Executive, who has held corporate and field level loss prevention positions with various retail companies. Don became a CFI in June 2004 and has conducted interrogations for over 10 years. He can be reached at warddon@ymail.com or by phone at 412-498-1041.



Dave Zulawski, CFI, Shane Sturman, CFI, & Ray Cotton, CFI before their presentation at the NRF National Conference.

QUOTE OF THE QUARTER

Education is the most powerful weapon which you can use to change the world.

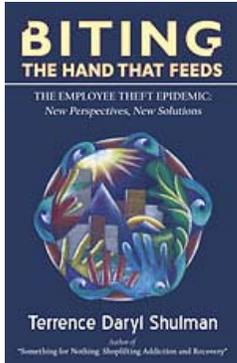
—Nelson Mandela, Nobel Peace laureate



Three CFIs were photographed as members of the Ring of Excellence for the National Retail Federation. The Ring of Excellence recognizes individuals that have been an integral part in creating the Loss Prevention Profession as we have come to know it today. CFIs pictured are Dave Zulawski, CFI, (bottom row left-1st) Fred Wilson, CFI (bottom row left 2nd in) and Doug Wicklander, CFI (top row left-2nd in).



Book Review



Biting the Hand that Feeds, The Employee Theft Epidemic: New Perspectives, New Solutions

By Terrence Daryl Shulman
Review by Jay Martin, CFI, CPP

Terrence Daryl Shulman is an attorney, therapist, consultant and a person in recovery from addictive-compulsive theft since 1990. In 1992 he founded the Cleptomaniacs And Shoplifters Anonymous (C.A.S.A.). He has also

authored *Something for Nothing: Shoplifting Addiction and Recovery*.

His book is divided into five sections: A Human Face on Theft, New Perspectives, New Solutions, Exercises for Recovering Theft Addicts, and Related Issues.

Part one explores the various “faces” on employee theft in their own words. This section features various examples of employees who steal or have stolen from work, the loss prevention personnel who attempt to stop them, and finally, perspectives from the business owners affected by the theft.

Part two discusses various reasons why people steal from work, along with statistical data obtained from people who have attended his C.A.S.A. meetings.

Part three addresses solutions for reducing and addressing employee theft; specifically the importance of employee screening and management awareness of issues that increase the propensity for theft, such as low morale, poor communication and no sense of ownership. Lastly, he examines the top 10 concerns employees have and how they have shifted over the years.

Part four involves self-help exercises and coping skills designed to assist with the recovery process. These exercises deal with a lot of reflection and steps addicts should take to move forward, including a 12-step process that mirrors other addiction recovery programs.

Part five deals with intervention tactics and coping strategies for theft offenders and their families, in addition to what to expect if they are terminated or prosecuted.

Analysis

While I feel Shulman’s book may be of value to CFIs, it falls short of providing the new perspectives or new solutions it claims. His “new perspectives” were broad-brushed and failed to mention a key component of employee theft—opportunity. Additionally, the section on “new solutions” lacked substance and he missed an opportunity to delve into more contemporary solutions that retailers are using to bridge generational attitudes, develop a sense of ownership within the company and varying strategies used to reward employees, all of which are geared towards employee retention and the prevention of losses. It would have been very beneficial for him to explore these initiatives and how they were perceived by theft offenders.

The greatest value of Shulman’s work for our field comes from the stories written by people who were or are involved in employee theft, much of which is written in their own words. Their stories provide numerous real-life examples that can be used during the interview/interrogation process in developing rationalizations, a critical component of the interview process. Not only do they speak of the actual theft, but how they started and why. Many of them describe events in their personal lives, some dating back to childhood, which served as a catalyst into a life of theft and deception. This allows the reader to get into the minds of these individuals and help put us in their shoes.

Shulman’s empathy is also very apparent in work, which is understandable given he is a recovering theft addict himself. This approach may be a turn off to some readers, especially for those who conform to societal norms and don’t engage in dishonest behavior. The successful interviewer though, knows the importance of showing empathy towards his subject, even if it is feigned. Empathy does not mean that we condone their behavior, just that we have compassion for them; compassion could be the very thing that gets you what you want—an admission.

For those of you who would like to have a better understanding of why people engage in employee theft, how they started and how they justify it then I would recommend reading “Biting the Hand that Feeds.” On the other hand if you are looking for “new solutions” to address or prevent employee theft, I would suggest looking elsewhere.

Jay Martin, CFI, CPP is a Regional Asset Protection Manager for Rush Enterprises, Inc. the nation’s largest Peterbilt truck dealer. He holds a M.A. in International Affairs from Ohio University, a B.S. in Criminal Justice from Weber State University, and serves as a Committee Chair for the Phoenix Chapter of ASIS International. Martin can be reached by email at martinjay@rushenterprises.com.

CFIs in the Media

The following individuals were involved in expanding the CFI designation by giving presentations at the following conferences, or writing articles for listed publications. Please let us know if you are involved in expanding the designation awareness.

National Food Service Security Council:

Stefanie Hoover, CFI-Generation Y: Loss Prevention and the New Workforce

Cary Jones, CFI-Generation Y: Loss Prevention and the New Workforce

Wayne Hoover, CFI-Telephone Interviewing

National Retail Federation:

Dan Doyle, CFI- (Moderator) The State of the LP Industry

Mike Keenan, CFI-The State of the LP Industry

Bill Suthard, CFI-Organized Retail Crime: Tackling a Multi-Billion Dollar Problem

Kevin Valentine, CFI-Background Investigations

Alan Tague, CFI-Exception Reporting

Jeremy Bailey, CFI-Internal Theft

Jim Carr, CFI-Specialty Stores

David Lund, CFI-Training/Awareness Programs

Denise Hunter, CFI-Training/Awareness Programs

Jacklyn Cato, CFI-Women in LP Caucus

Laurie Sorensen, CFI- (Moderator) Execute or Be Executed: Loss Prevention by Moving Strategic Thinking to Strategic Doing

Robert Pennucci, CFI- (Moderator) Becoming a Loss

Prevention Director: Your First 90 Days on the Job

Ray Cotton, CFI- (Moderator) Difficulties Developing Admissions: Could It Be Me?

Dave Zulawski, CFI-Difficulties Developing Admissions: Could It Be Me?

Shane Sturman, CFI-Difficulties Developing Admissions: Could It Be Me?

David Shugan, CFI-Developing and Leading Successful Loss Prevention Teams

Mark VanBeest, CFI-Developing and Leading Successful Loss Prevention Teams

John DeYong, CFI-Recovering Business Operations With and Without Business Resources

Maurice Edwards, CFI-Performance Management: A Holistic Approach to the Performance You Want

Walter Palmer, CFI-Performance Management: A Holistic Approach to the Performance You Want

Retail Industry Leaders Association:

Walter Palmer, CFI-Reality Check: Benchmarking Your Performance on Shrinkage and Emerging Issues

Mike Marquis, CFI-Building an Interviewer: Lessons Learned

Wayne Hoover, CFI-Building and Interviewer: Lessons Learned
Lance Williams, CFI-Branding and Development of Your Own In-House LP Awareness Program

American Society of Industrial Security:

Dave Zulawski, CFI-Non-Confrontational Interrogation

RILA Report (Volume 2, Issue 6):

David E. Zulawski, CFI, CFE and Douglas E. Wicklander, CFI, CFE-Creating a World Class Interviewing Team, Part 1 ([link here](#))

Walter E. Palmer, CFI-Loss Prevention and Shortage: Cause and Effect ([link here](#))

Loss Prevention Magazine:

Douglas E. Wicklander, CFI, CFE and David E. Zulawski, CFI, CFE-Problems Developing the Admission: Part 3

Mike Marquis, CFI-The Case of the Missing VCRs—Part 1

[Family credits investigators for never giving up](#)

A professional interrogator from the management security services firm of Wicklander-Zulawski & Associates from Downers Grove, IL.

[Killer who led police to body denies he is culprit](#)

But Jennifer L. Leibow, a professional interviewer with the management security services firm Wicklander-Zulawski & Associates in Downers Grove, IL.

[Dom on TV](#)

Domenic Cappelluti, CFI is seen on NBC Channel 5 in Chicago, after helping solve the murder of a 6-year-old girl.

[Chris Collier, CFI is interviewed by LPCommunity.com in August.](#)

Chris talks about 'striking while the iron is hot' and making the most of the moment of apprehension with regard to finding out more about the crime. He explains that this moment of vulnerability in your perpetrator creates an excellent time to flex your rationalization skills. You may end up gleaning more information than you expected, and even if you don't, it's a great way to get practice in for future interviews.

[Man accused of selling stolen bras on eBay](#)

A New York City man was arrested on charges of selling \$80,000 worth of stolen Victoria's Secret bras on online auction site eBay. The suspect allegedly purchased the bras for wholesale prices from a professional shoplifting organization. [New York Daily News](#) (9/3), [New York Post](#) (9/3). Joe Hajdu, CFI, is the investigator that solved this case.



Links of Interest

Where a judge suppressed the confession of a 17-year-old defendant, we hold that the suppression order must be reversed because the justice's rationale for issuing it was not "consistent with established principles" or, in some aspects, "with the record and [the judge's] own findings." As seen in Massachusetts Lawyers Weekly, July 14, 2008. [Criminal - Confession](#)

[Torture works and may be necessary to stop a devastating attack, judge says](#)

As seen in the Integrative Center for Homeland Security from Texas A & M University, July 31 issue.

[A Look at Terrorist Behavior: How They Prepare, Where They Strike](#)

As seen in the National Institute of Justice Journal, Issue 260, July 2008.

CFIs Recertify

We are proud to list those who have recertified. This list includes those who have submitted their paperwork from May to July, 2008, to continue their CFI designation through 2010. Congratulations on maintaining your CFI.

Christopher Barkis
Stanley Berger, II
David Bilan
Ian Butler
John Copen II
Marcella Coppola
Stefano DeMichelis
Scott Dillaha
Brian Frasier
Jose Gonzalez
Christopher Haye
Denise Hunter

Hoda Ilyavi, Jr.
Joseph Reyes
Joseph Rezendes
Michael Riddle
Robin Rosario
Luis Rosell
Margaret Schwingel
Douglas Selby
Stephan Skoog
Stephen Smith
Karen Vernon
Lindsey Wilson

Welcome CFIs

The following individuals became CFIs during the quarter, May - July, 2008. Congratulations to those who have achieved the CFI status this last quarter!

To view the current list of all CFIs, visit our web site, or [click here](#).

Felipe Chavez
Elizabeth Christensen
Bryan Davis
Gregory Derennaux
Venus Finley-Akins
David Glodstein
Richard Groner
Chad Hastings
David Henderson
Justin Herb
Mia Johnson
Joseph Kertis
Maryann Kotyuk
John Mattera
Timothy Maurer
Shani McKee
William Miller
Patricia Mincey
Chris Mintz
Sarah Olson
Karen Parnell
James Richey
Sheldon Sahadeo
Joshua Saunders
Steve Schwartz
Daniel Smith
Brad Suiter
Seth Tanner
Shane Thorpe
L. Jay Tubaugh
Mark Williams

cfinsider

- The cfinsider journal is distributed in electronic format only. You can view back issues of this newsletter. [Click Here](#).
- Opinions and ideas in cfinsider are intended for information only, and not meant to be used as legal advice. Statement of fact and opinions made are the responsibility of the authors and do not imply an opinion on the part of CISA, its officers, the editors or its members.
- Member articles about interview and interrogation published in cfinsider, qualify for Continuing Education Credits.
- Should you have any questions on obtaining recertification for your CFI designation, please [click here](#) to contact CISA.

Are You Carrying Yours?





Retailers Crack Down On Shoplifting Rings

A new crime-fighting group has been formed, made up of Law Enforcement agencies and retail stores across New England. They're teaming up to take on a growing problem - organized retail thieves.

The Law Enforcement Retail Alliance of New England will alert stores across six states about crimes.

MILFs Surrender

Manila, Philippines-August 20, 2008

Thirty MILF rebels were captured by elements of the Philippine army after part of their group had killed civilians and burned homes. The Moro Islamic Liberation Front (MILF) led by a Commander Abdullah Macapar,AKA Bravo, allegedly killed civilians and burned homes in five villages in Lanao del Norte, Philippines.

Under questioning by military interviewers the captured rebels claimed they had seen the MILF commander, Bravo, and his men shoot civilians and burn homes. The rebels surrendered because they became disillusioned with this treatment of civilians.

Philippine military commanders said the men will provide strong witnesses against the rebel commander and his men when they are captured and tried. The captured rebels had served as a blocking force before they surrendered.

Careful interviews with the men detailed the atrocities of the rebel commander and his men during their attacks on villages. Military officials claim the captured rebels' statements will clearly put the rebel commander Bravo at the heart of the incident. Officials reported 28 civilians, three soldiers, and a police officer were killed after the MILF attacked the five towns.

The Philippine military had been on a weeklong offensive to clear rebels who occupied a number of villages in a neighboring province.

CFIs by State and Country

The following listing of all CFIs by state or country was compiled to help with possible networking opportunities with other CFIs. There have been discussions about creating regional meetings. The CFI Advisory Board is open to the idea if CFIs are interested. We would need to form committees dependent on locations where we will have the most success. If you are interested in being a part of this endeavor, please contact [Wayne Hoover](#).

Country	#
England	2
Mexico	1
Trinidad	1
Canada	4
US	816
Total	824

State	#
AL	13
AR	12
AZ	16
CA	102
CO	8
CT	11
DC	2
DE	2
FL	89
GA	43
HI	1
IA	1
ID	1
IL	80
IN	10
KS	5
KY	10
LA	5
MA	16
MD	8
ME	1
MI	18
MN	13
MO	14
MS	3
NC	27
ND	4
NH	6
NJ	25
NM	2
NV	2
NY	24
OH	57
OK	1
OR	4
PA	38
PR	1
RI	2
SC	4
TN	11
TX	78
UT	1
VA	18
WA	23
WI	4
US Total	816

CISA

The objective of this certification program is to create comprehensive, universally accepted professional standards combined with an objective measure of an interviewer's knowledge of those standards. The ultimate goal is that every person and every organization with a stake in interviewing will benefit from the program, as will the reputation and effectiveness of the entire profession.

CFI Code of Ethics

The Certified Forensic Interviewer is a professional with the expertise to conduct a variety of investigative interviews with victims, witnesses, suspects or other sources to determine the facts regarding suspicions, allegations or specific incidents in either public or private sector settings.

The Certified Forensic Interviewer demonstrates understanding of legal aspects of interviewing and proficiency in interview preparation, behavioral analysis, accusatory and non-accusatory interviewing, documentation, and presentation of findings.

[Click here](#) to link to the complete CFI Code of Ethics.

Opinions and ideas in cfinsider are intended for information, and is not meant to be used as legal advice.



CFIs On the Move!

Lee P. Foley, CFI, has been named Regional LP Supervisor with Dollar General.

Dustin Hudgins, CFI, was promoted to Regional Loss Prevention Director Rite Aid Corporation.

Paul Paglia, CFI, was promoted to Regional LP Director Bloomingdale's.

David Lund, CFI, was promoted to Vice President of Loss Prevention Dick's Sporting Goods.

Earl Watson, CFI, was appointed to Senior Director Loss Prevention Wal-Mart.

Shane Owings, CFI, was appointed to District Loss Prevention Manager Polo Ralph Lauren.

Juan Ospina, CFI, was promoted to Regional LP Manager New York & Company.

Matt Lincoln, CFI, was appointed to Regional LP Manager PetSmart.

Jim Elder, CFI, was appointed to Divisional LP Manager T-Mobile.

Michael Korso, CFI, was appointed to Area LP Manager Tween Brands.

Bryant McAnnally, CFI, was appointed to Regional LP Manager Disney Stores.

Gregg Smith, CFI, was appointed to Sr. Director of Loss Prevention Donna Karan.

Marc Heath, CFI, was promoted to Corporate Loss Prevention Manager BJ's Wholesale Club.

Dan Horowitz, CFI, was promoted to Sr. Regional LP Manager Rue21.

Bill Tessier, CFI, was appointed to Regional LP Manager Wet Seal

Doreen Pavese, CFI, was appointed to regional LP Manager New York & Company.

Juan Madrid, CFI, was appointed to Regional LP Manager Kay Bee Toys.

Bobby Mothershed, CFI, was promoted to Director Loss Prevention Training and Administration.

Ron Taylor, CFI, was promoted to Regional LP Manager – Nike.

Jason Shaw, CFI, was promoted to Regional LP Manager Nike.

Clay Corderman, CFI, was appointed to District LP Manager – JC Penney.

Kathy Laws, CFI, was promoted to Sr. Regional LP Manager Banana Republic.

Michael Velazquez, CFI, was appointed to Regional LP Manager Apple.

John MacLeod, CFI, was promoted to Regional Asset Protection Director Polo Ralph Lauren.

Glenn Justus, CFI, was appointed to Sr. Corporate Investigator – Barnes & Noble.

Brian Ikert, CFI, was appointed to Loss Prevention Specialist Publix.

Ray Cotton, CFI, was promoted to Director of Security Operations Orchard Supply Hardware.

Shane Owings, CFI, was appointed to Territory LP Manager The Great Indoors Sears Holdings.

Matt Christman, CFI, was appointed to District LP Manager Dick's Sporting Goods.

Cary Jones, CFI, was promoted to Regional LP Supervisor Cracker Barrel Old Country Store.



CFI Recertification Information

A link to the http://certifiedinterviewer.com/seminar_classes.htm will give you a list of some of your options. To download the recertification form, please click the following link: http://certifiedinterviewer.com/pdfs/CISA_Certification.pdf

Here are some links that take you to pre-approved seminars or programs that can be applied to your recertification:

www.policetraining.net

www.w-zcampus.com/campusV2/campus/course_catalog.html

www.w-z.com/schedulecfi.php#schedules

www.lsiscan.com/scan_training.htm

[NRF Investigator Network Meeting Calendar](#)

CFI Recertification Options

October 14-15, 2008

NRF LP Senior Executive Summit
Dallas, TX **Senior Executives by Invitation Only**

October 19-23, 2008

California Burglary and Theft Investigator Association
Annual Training Conference

October 29, 2008

NRF-Investigator's Network Meeting Northwest Region
Host: Macy's, Seattle, WA

****Note:** CFIs have mentioned they will Should you be attending a national conference, company conference, or seminar that requires name tags, e-mail [Wayne Hoover](#), and he will send you your CFI Ribbon to attach to the name tags. be at these conferences and/or be presenting at these conferences. For networking possibilities with other CFIs, please contact [Wayne Hoover](#) via e-mail for an introduction.

CFIs Needed

We are looking for a number of CFIs who are interested in participating in a project for Rationalizations/Themes. We have created a chart of about 78 different Rationalizations/Themes and would like to have a few different Rationalizations/Themes for each of the 78. The goal of the project is to have a place CFIs can go when they have an interview to gather possible Rationalizations/Themes for their case.

As part of this project we will be assigning Continuing Education Credits for your recertification should you be a part of this research project.

CFI Recertification

Below are the individuals who are up for recertification who have not sent in their signed sheet saying they met the requirements to be recertified, the payment, or both. The individuals listed are for October - December, 2008. Please [click here](#) to download a form. Send in your payment and form as soon as possible, so you will not be required to take the CFI examination again to keep your CFI designation.

October

Tina Ayo
Troy Bennett
Michael Bidwell
Jason Martin
Douglas Newstrom
Doreen Pavese
Erik Stephens
Ian Vernon
Karen Vernon

November

John Pappas
Benjamin Robeano
Kurt Simpson
Clay Tyson

December

Jeremy Bailey
Kevin Griggs
Lawrence Hartman
George Hines, Jr.
Cliff Means
Mark Reagan
Robert Smith
Gerald Thering
Kimberlee Woo

Organizations Represented

The following list comprises the new organizations that have individuals who have successfully achieved the CFI designation during the quarter, May - July 2008.

To view the current list of organizations represented, visit our updated web site, or [click here](#).

Best Buy
Executive Strategies Inc.
Polyczar Forensics Ltd.
Purfumania
SUNY College at Old Westbury, NY
U.S. Army

Letters to the Editor

Every magazine provides an opportunity for readers to express their feelings about the content of the publication. We welcome your thoughts and comments to help us better address your issues. [Click here](#).